

Amendment No. 1 to SB2278

Crowe
Signature of Sponsor

AMEND Senate Bill No. 2278

House Bill No. 2182

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 4, is amended by adding a new chapter 39 as follows:

4-39-101.

(a) This chapter shall be known and may be cited as the “Healthy Food Financing Act.”

(b) The purpose of the chapter is to establish a statewide program to increase the availability of fresh and nutritious food, including fruits and vegetables, in underserved communities by providing financing for retailers to open, renovate or expand grocery stores.

4-39-102.

(1) “Financing” means traditional loans and grants, or forgivable loans, or both forms of loans;

(2) “Grocery store” means a for-profit or not-for profit self-service retail establishment that primarily sells meat, seafood, fruits, vegetables, dairy products, dry groceries, household products, and sundries;

(3) “Low income community” refers to any population census tract that meets one (1) of the following criteria (as reported in the most recently completed decennial census published by the U.S. bureau of the census):

(A) The poverty rate for census tract is at least twenty percent (20%); or

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(B) In the case of a low income community located:

(i) Outside of a metropolitan area, the median family income (MFI) for such tract does not exceed eighty percent (80%) of statewide MFI;

(ii) Within a metropolitan area, the MFI for such tract does not exceed eighty percent (80%) of the greater of statewide MFI or metropolitan area MFI; or

(iii) Within a possession of the United States, the MFI does not exceed eighty percent (80%) of possession wide median family income;

(4) "Moderate income community" refers to any population whose incomes are between eighty-one percent (81%) and ninety-five percent (95%) of the median income for the area; and

(5) "Underserved communities" means, for the purpose of this policy, an area with low supermarket access that must either:

(A) Be a census tract determined to be an area with low access by the U.S. department of agriculture (USDA), as identified in the USDA's Food Access Research Atlas; or

(B) Be identified as having low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental or philanthropic healthy food initiative.

4-39-103.

(a) There is established the healthy food financing fund, which moneys shall be used to expand access to fresh produce and other nutritious foods in underserved communities by offering financing for the construction or expansion of grocery stores. Moneys in the fund shall be expended upon appropriation by the general assembly. Moneys shall be used, to the extent practicable, to leverage other funding. Grants or forgivable loans should comprise a minimum of twenty-five percent (25%) of the fund.

(b) The healthy food financing fund is established as a general fund reserve to be allocated by the general appropriations act. The fund may receive moneys from state appropriations, and other sources as may be designated by this chapter or other law. Moneys from the fund may be expended to fund activities authorized by this chapter. Any revenues deposited in the fund shall remain in the reserve until expended for purposes consistent with this chapter and shall not revert to the general fund on any June 30 but shall remain available for appropriation in subsequent fiscal years.

4-39-104. The department of agriculture in cooperation with public and private sector partners, shall establish a financing program to provide funding to retailers to construct, rehabilitate or expand grocery stores in underserved communities in both urban and rural communities.

4-39-105.

(a)

(1) The department of agriculture may contract with one (1) or more qualified nonprofit organizations or community development financial institutions to administer this program through a public-private partnership. These organizations will establish program guidelines, raise

matching funds, promote the program statewide, evaluate applicants, underwrite and disburse grants and loans, and monitor compliance and impact. At least ten percent (10%) of funding must be designated for administrative funds to launch and operate, or operations resources must be adequately provided for from other budgets or in-kind resources.

(2) The commissioner of agriculture is authorized to promulgate rules to carry out the program to meet the intent of this chapter. All rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(3) The department of agriculture shall report annually to the general assembly on projects funded, the geographic distribution of the projects, and the costs and outcomes of the program including the number and type of jobs created and health impact of the project.

(b) Program administrators will create eligibility guidelines and provide funding through an application process. Projects must be located in an underserved community and primarily serve low to moderate income residents.

Projects eligible for funding are:

(1) Construction of new grocery stores; and

(2) Store renovations, expansion, and infrastructure upgrades that improve the availability and quality of fresh produce and other healthy foods.

(c)

(1) An applicant for funding may be a for-profit or not-for profit entity, including but not limited to, a sole proprietorship, partnership, limited liability company, corporation, cooperative, nonprofit organization, nonprofit community development entity, university, or government entity.

(2) Applicants for funding shall complete an application and comply with an application process established by the department. The commissioner of agriculture shall establish application fees by rule in an amount determined to reasonably fund the administrative expenses of the department.

(d) An applicant for funding must:

(1) Demonstrate the capacity to successfully implement the project and the likelihood that the project will be economically self-sustaining;

(2) Demonstrate the ability to repay the debt; and

(3) Agree, for period of at least five (5) years, to comply with the following conditions:

(A) To accept supplemental nutrition assistance program (SNAP) benefits;

(B) To apply to accept special supplemental nutrition program for women, infants and children (WIC) benefits and accept WIC benefits, if eligible;

(C) To allocate at least thirty percent (30%) of food retail space for the sale of perishable foods, which may include dairy, fresh produce, fresh meats, poultry, fish or these same foods frozen. In some cases the square footage requirements described above may be waived if the retailer is primarily selling non-prepared and perishable foods, including fresh fruits and vegetables, but cannot accommodate a full line of grocery products due to a store format issue;

(D) To comply with all data collection and reporting requirements established by the department of agriculture; and

(E) To promote the hiring of local residents.

(e) In determining which qualified projects to fund, the department shall consider:

(1) The level of need in the area to be served;

(2) The degree to which the project requires an investment of public funding to move forward, create impact, or be competitive, and the level of need in the area to be served;

(3) The degree to which the project will have a positive economic impact on the underserved community, including by creating or retaining jobs for local residents; and

(4) Other criteria the department determines to be consistent with the purposes of this chapter.

(f) Funding made available for projects may be used for the following purposes:

(1) Site acquisition and preparation;

(2) Construction and build-out costs;

(3) Equipment and furnishings;

(4) Soft costs, such as workforce training or security;

(5) Pre-development costs, such as market studies and appraisals;

(6) Energy-efficiency measures; and

(7) Working capital for first-time inventory and start-up costs.

SECTION 2. For rulemaking purposes, this act shall take effect on becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on July 1, 2014, the public welfare requiring it.